

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

0.499 ACRES OF LAND, MORE OR LESS,
SITUATE IN HIDALGO
COUNTY, STATE OF TEXAS; AND
IRMA GARZA, ET AL.,

Defendants.

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CASE NO. 7:20-cv-041

UNITED STATES OF AMERICA’S MOTION FOR SUBSTITUTED SERVICE

The Plaintiff, United States of America, by and through the undersigned Assistant United States Attorney for the Southern District of Texas, hereby moves for substituted service on Defendant Danny Olivarez, Jr., and in support states:

1. The United States has attempted to serve Danny Olivarez, Jr. at 654 Glazebrook St. Apt. 5, Corpus Christi, Texas 78404 which is his usual place of abode. Attached as Exhibit “1” is an Affidavit in Support of Motion for Substituted Service executed by Eric M. Enim Texas Cert # PSC-4903, of Professional Civil Process of Texas, Inc., in Spicewood, Texas. This Affidavit shows the results of the attempted service on Danny Olivarez, Jr.
2. The United States would show that it is impractical to secure personal service on Danny Olivarez, Jr. and that due search, diligent inquiry and effort have been made to secure personal service.
3. The United States requests that the Court allow service by attaching a copy of the summons and Notice of Condemnation securely to the front door of Danny Olivarez, Jr.’s usual place of abode,

or by leaving it with someone 16 years of age or older, and by mailing it regular mail to the above-referenced address, or in any other manner which will be reasonably effective to give Danny Olivarez, Jr. notice of the suit.

4. Attaching a copy of the summons and Notice of Condemnation securely to the front door of Danny Olivarez, Jr.'s usual place of abode, or by leaving it with someone 16 years of age or older, and by mailing it regular mail to the above-referenced address, or in any other manner which will be reasonably effective to give Danny Olivarez, Jr. notice of the suit, would comply with Rule 106 of the Texas Rules of Civil Procedure and is also allowed under the Federal Rules which allow service on a defendant if the means of service are consistent with the law of the state in which service is attempted. *See* Rule 4(e)(1) Fed. R. Civ. P.

5. The United States requests this Motion for Substituted Service be granted and that the Court direct service on Danny Olivarez, Jr. by attaching a copy of the summons and Notice of Condemnation on the front door of 654 Glazebrook St. Apt. 5, Corpus Christi, Texas 78404, or by leaving it with someone 16 years of age or older, and by mailing it regular mail to the above-referenced address, or any other manner the Court orders which will be reasonably effective to give Danny Olivarez, Jr. notice of the suit.

CERTIFICATE OF CONFERENCE

On May 28, 2020, Plaintiff sent a letter to 61 of the known heirs of Nancy Champion and Pedro Garza, Sr. remaining in the case, informing them that the United States intends to file this motion for substituted service on Danny Olivarez, Jr. and that they should notify undersigned counsel by the close of business on Friday, June 12, 2020 if they were opposed to the filing of said motion. To date, no one has notified undersigned counsel of their opposition to the motion. However, because the United States has been unable to contact David Simon Serna, the motion is being filed as opposed.

Respectfully submitted,

RYAN K. PATRICK
United States Attorney
Southern District of Texas

By: *s/ N. Joseph Unruh*
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CERTIFICATE OF SERVICE

I, N. Joseph Unruh, Assistant United States Attorney for the Southern District of Texas, do hereby certify that on June 15, 2020, I mailed a true and correct copy of the foregoing document via first class mail to the all parties still remaining in this case.

By: *s/ N. Joseph Unruh*
N. JOSEPH UNRUH
Assistant United States Attorney